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Entered: February 28, 2011

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Tokyo Ohka Kogyo Co., Ltd.  
(Application 10/565,696  
Inventors: Ryotaro Hayashi, Hideo Hada, and  
Takeshi Iwai),

v.

Shin-Etsu Chemical Co., Ltd.,  
Senior Party  
(Patent 7,157,207  
Inventors: Kenji Funatsu, Tsunehiro Nishi and  
Shigehiro Nagura).

Patent Interference No. 105,745 (RES)  
(Technology Center 1700)

1           **Judgment - Request for Adverse - 37 CFR § 41.127(b)**  
2           Junior Party, Tokyo Ohka Kogyo Co., Ltd., requested adverse  
3 judgment under 37 CFR § 41.127(b) conceding priority to the Senior party.  
4           Accordingly, it is  
5           **ORDERED** that judgment on priority as to the subject matter of  
6 Count 1 (Paper 1, p. 3) is awarded against junior party, Tokyo Ohka Kogyo  
7 Co., Ltd.;

1       **FURTHER ORDERED** that Tokyo Ohka Kogyo is not entitled to a  
2 patent including the subject matter of Claims 1, 5-8, 12-14, 18 and 19 of its  
3 Application 10/565,696;

4       **FURTHER ORDERED** that Claims: 1, 5-8, 12-14, 18 and 19 of  
5 Application 10/565,696, corresponding to Count 1, are finally refused (35  
6 U.S.C. § 135(a));

7       **FURTHER ORDERED** that a copy of this judgment be made of  
8 record in the files of Application 10/565,696 and Patent 7,157,207; and

9       **FURTHER ORDERED** that if there is any settlement agreement or  
10 related documents which have not been filed, attention is directed to  
11 35 U.S.C. § 135(c) and 37 CFR § 41.205.

|    |                             |   |
|----|-----------------------------|---|
| 12 |                             |   |
| 13 | <u>/Richard E. Schafer/</u> | ) |
| 14 | RICHARD E. SCHAFER          | ) |
| 15 | Administrative Patent Judge | ) |
| 16 |                             | ) |
| 17 | <u>/Jameson Lee/</u>        | ) |
| 18 | JAMESON LEE                 | ) |
| 19 | Administrative Patent Judge | ) |
| 20 |                             | ) |
| 21 | <u>/Sally C. Medley</u>     | ) |
| 22 | SALLY C. MEDLEY             | ) |
| 23 | Administrative Patent Judge | ) |

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

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